

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (E 338-E) for Order Approving Proposed Settlement Agreement Regarding QFID 2180 and Authorizing Edison's Recovery of Payments Made Under the Proposed Settlement Agreement Between Edison and the County of Los Angeles.

Application 01-09-027
(Filed September 19, 2001)

ADMINISTRATIVE LAW JUDGE'S RULING

On September 19, 2001, Southern California Edison Company (SCE) filed a motion for a protective order, and its application seeking Commission approval of a settlement agreement between SCE and the County of Los Angeles (County). The settlement agreement would resolve over two years of disputes between SCE and the County regarding the County's Pitchess Honor Rancho generating facility, a qualifying facility (QF).

SCE's motion for a protective order seeks to prevent public disclosure of confidential and sensitive information contained in the application. According to SCE, this information falls within two broad categories: the settlement agreement's terms and some aspects of its negotiation; and SCE's analysis of customer benefits under the litigation risks avoided by the settlement agreement. SCE contends that the disclosure of this kind of information would adversely affect SCE's ability to settle or try lawsuits concerning QF contracts, and would impair its ability to obtain the best settlement terms or trial outcome for SCE's

customers. SCE argues that this information should remain confidential to prevent the settlement agreement from becoming the starting point for other parties' negotiations with SCE. In addition, SCE's analysis of its litigation risks should be protected from public disclosure to avoid giving QFs the advantage of knowing how SCE evaluates such agreements during negotiations.

SCE states that it has routinely requested, and been granted, protective orders to cover the terms of settlement agreements with QFs and SCE's analysis of customer benefits. In addition, SCE has also requested and received protective orders to cover negotiations leading to agreements to settle disputes arising under the QF contracts.

No responses to the protective order were filed.

Since the settlement agreement involves the resolution of issues associated with a standard power purchase agreement that SCE routinely uses in its contracts with QFs, the information pertaining to this particular settlement, the negotiation of the settlement, and SCE's analysis of the litigation risks, should be kept confidential. The public disclosure of this kind of information could affect the outcome of other QF contract litigation, or other litigation in which SCE is involved.

Accordingly, the motion of SCE for a protective order should be granted as follows. The material that SCE filed under seal on September 19, 2001, consisting of the non-public version of SCE's application, the non-public version of Exhibit No. SCE-3 to the application, and Exhibit No. SCE-2 to the application, shall remain under seal. This material shall not be made accessible or disclosed to anyone other than Commission staff, the assigned Commissioner, the assigned Administrative Law Judge, or the Administrative Law Judge then designated as the Law and Motion Judge.

SCE shall be excused from the requirement of providing a copy of the confidential information to interested parties (other than employees and agents of the Commission) unless and until such parties make a sufficient showing of need as to outweigh SCE's and the QF's interests in preserving the confidentiality of the confidential information.

IT IS RULED that the September 19, 2001 motion of Southern California Edison Company for a protective order is granted as described above.

Dated October 17, 2001, at San Francisco, California.

/s/ JOHN S. WONG

John S. Wong
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated October 17, 2001, at San Francisco, California.

/s/ JEANNIE CHANG

Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

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